IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION Nos. 265 & 271 of 2002

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT AMBUJA CEMENTS LTD

Versus

UNION OF INDIA

Appearance:
MR DUSHYANT DAVE, SENIOR COUNSEL WITH MR PARESH M DAVE
MR MANMOHAN AND MR MANISH K.JHA for Petitioners No. 1-2
MR DN PATEL for Respondents No. 1-3

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE D.A.MEHTA

Date of decision: 19/02/2002

COMMON JUDGEMENT

(Per : CHIEF JUSTICE MR DM DHARMADHIKARI)

1 Rule. Mr.D.N.Patel, learned Advocate appears and waives service of Rule on behalf of the respondents. With

the consent of the learned Advocates appearing for the respective parties the matters are heard and decided finally.

2 After hearing learned Counsel at considerable length we have formed an opinion that the Appellate Authority while considering the application for waiver of predeposit overlooked the decisions of the Supreme Court and the High Courts cited by the petitioner. We have also for the purpose of finding out prima facie case in favour of the petitioner gone into the question of the valuation of the imported goods for the limited purpose for deciding these petitions. At this stage, we would avoid to express any opinion one way or the other on the merits of the case when the matter is pending. We direct the Appellate Authority to decide the case on merits on the condition of petitioner depositing a sum of Rs.30 lacs. It is made clear that in case the petitioner succeeds in Appeal the said amount shall not be credited to the Consumer Welfare Fund and shall be returned to the petitioner. We further direct that the Appellate Authority shall make endeavour to decide the case finally within four weeks from the date of receipt of this order. Rule made absolute to the aforesaid extent only. There shall be no order as to costs. Direct service is permitted.

Sd/-
(D.M.Dharmadhikari, C.J.)
Sd/-
(D.A.Mehta, J)
m.m.bhatt